

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0348P

Use Tax

Calendar Years 1994, 1995, 1996

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on October 7, 1997.

Taxpayer failed to self assess use tax on clearly taxable items although he was twice previously audited.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer argues that it should not be penalized because they were not deliberately avoiding paying the tax nor was it a matter of negligence.

Taxpayer's audit report revealed that only \$23.93 in use tax was paid in 1994, none in 1995, and \$2,511.21 in 1996 when the taxpayer's son came into the business. The taxpayer failed to self assess as required by statute and was made aware in prior audits that use tax should be self assessed. Taxpayer failed to make corrections until 1996, therefore the penalty is appropriate.

FINDING

Taxpayer's protest is denied.

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